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Federal Communications Commission
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PR Docket No. 92-235

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frequency coordinators to have broad flexibility in the coordination of new and developing spectrally-efficient technologies.

I. Contrary To The Goals Of The Refarming Decision, UTC and SEA Seek To Have The Commission Establish Unnecessary Restrictions On The Licensing Of Systems.

In its petition, Motorola requests clarification that a licensee can be authorized to replace a single 25 kHz radio with two 12.5 kHz radios within the existing bandwidth. As detailed in its initial comments in this proceeding, Securicor agrees that subject to frequency coordination the Commission's refarming rules and policies allow for this licensing approach. Both UTC and SEA, however, seek to have the Commission establish unnecessary restrictions on the licensing of future land mobile systems.

While stating that it agrees with Motorola's request, UTC, in fact, argues for an unnecessarily restrictive "frequency-specific" approach to future licensing matters that will actually prevent efficient spectrum utilization and impede the development of new technologies. Specifically, UTC contends that the Commission should limit license authorizations solely to the "25 kHz carrier frequency listed in the Part 90 frequency table, with an appropriate emission designator ... to indicate the channel is in effect, frequency division multiplexed."⁴

In a similarly restrictive proposal, SEA contends that the Commission should rule "that licensees of 25 kHz-spaced channels are not entitled to use the entire 25 kHz of channel bandwidth."⁵ According to SEA, a licensed 25 kHz-spaced channel should be entitled to only 20 kHz of authorized bandwidth. Therefore, SEA contends that the

⁴UTC comments, at 3.

⁵SEA Comments, at 3.

two 12.5 kHz channel implementation suggested by Motorola can not be authorized under any circumstances because it would require 23.75 kHz of contiguous authorized bandwidth.⁶ As detailed below, both of these restrictive approaches are clearly inconsistent with the policy underlying the Commission's refarming rules for broad flexibility in the licensing of future systems.

II. The Commission's Existing Policy Of Broad And Robust Flexibility In The Coordination Process Will Lead To The Continued Development Of New Spectrally-Efficient Systems.

The restrictive positions advocated by UTC and SEA seek to reverse the Commission's decision calling for a "technology neutral" environment in which frequency coordinators are given extensive authority to find marketplace solutions to achieve better utilization of the spectrum and to promote new technologies. Indeed, as highlighted by the different technical approaches advocated by these parties, specific licensing decisions are best left to the coordination process. Licensing decisions can then be made pursuant to industry standards and guidelines addressing technical coordination procedures and interference standards. The Commission should not reverse its decision to encourage broad licensing flexibility and instead attempt to now micro manage the licensing process.

As UTC correctly points out, the Commission's stated goals in adopting the refarming rules were to develop a regulatory structure that promotes "efficient use of the spectrum, increases technical flexibility, enhances the deployment of new technologies and promotes a competitive and robust marketplace for product development."⁷ Thus, contrary to the position now advanced by UTC, while

⁶SEA Comments, at 5.

⁷UTC comments, at 3.

coordinators are free to recommend licensing authorizations using a 25 kHz carrier frequency, they are also free to recommend other channel centers, subject to interference guidelines established and accepted in the industry.

In its Order the Commission specifically held "we will permit frequency coordinators to recommend frequencies *inconsistent* with the adopted band plan, for any technology, including 5 kHz..."⁸ UTC's rigid approach to licensing will not only unnecessarily remove authority from the coordinators in finding acceptable marketplace solutions for better utilization of the spectrum it will serve to impede the development of a truly "technology neutral" environment.

UTC's proposal artificially limits the number of potential licensees while needlessly restricting geographical locations at which licensing will be available. UTC readily admits that its approach of mandating the "licensing (of) two 12.5 kHz channels as a single, multiplexed 25 kHz channel *will not permit the licensee to use the split channels at different geographic locations.*"⁹ This prohibition is far more rigid than the refarming channelization plan adopted by the Commission and is in sharp contrast to the Commission's policy goal of flexible licensing to promote better spectrum utilization.

Likewise, SEA's approach would serve to artificially limit spectrum utilization. For example, SEA states that "Motorola 6.25 kHz offset suggestion" would allow a current 25 kHz licensee to convert into "two 12.5 kHz assignments."¹⁰ Nevertheless, contrary to the Commission's policy of broad licensing flexibility, SEA contends that

⁸Memorandum Opinion and Order, PR Docket No. 92-235, released December 23, 1997, at para. 11 (Order) (emphasis added).

⁹UTC comments, at 4 (emphasis added).

¹⁰SEA Comments, at 6.

the operation proposed by Motorola should not even be considered in the licensing coordination process.

Both UTC and SEA erroneously argue that a restrictive approach to licensing is necessary under the existing channel plan. SEA contends that its approach is needed to "preserve the order of the channel plan".¹¹ Likewise, UTC contends that its suggested approach to future licensing is necessary to "minimize further complications in the coordination and licensing process."¹² However, these concerns are greatly exaggerated. Issues relating to channelization and coordination are best addressed by the coordinators on a case-by-case basis within the regulatory structure established by the Commission.

The adoption of industry standards and guidelines addressing technical coordination procedures and interference standards will establish a marketplace framework from which future coordinations can be reliably coordinated.¹³ Moreover, applicants are required to convince the coordinator and ultimately the Commission that a proposed system is acceptable for licensing.¹⁴ This approach properly balances any concerns for potential "complications" with the overriding public interest obligation of the Commission to foster better utilization of the spectrum and to promote the development of new spectrally-efficient technologies.

In sum, the suggested approaches for future licensing decisions advocated by UTC and SEA are unduly restrictive. A rigid licensing approach is contrary to the

¹¹SEA Comments, a 7.

¹²UTC Comments, at 4.

¹³See Second Report and Order, PR Docket No. 92-235, FCC 97-61, released March 12, 1997, at para. 43.

¹⁴Second Report and Order, PR Docket No. 92-235, FCC 97-61, released March 12, 1997, at para. 55.

Commission's goal of maximizing use of the spectrum through the introduction of new and advanced technologies into the marketplace without unnecessary restrictions. In fact, the licensing plans advanced by UTC and SEA will limit user options and impede the development of new technologies without any countervailing public interest benefits.

CONCLUSION

In view of the foregoing, the Commission should take action in this proceeding consistent with the views expressed herein.

Respectfully submitted,

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Certificate of Service

I, Robert B. Kelly, an attorney in the law firm of Kelly & Povich, P.C., hereby certify that on this 12th day of May, 1997, I caused a true and complete photocopy of the foregoing "Reply Comments" to be sent via U.S. first class mail, postage prepaid, to the following:

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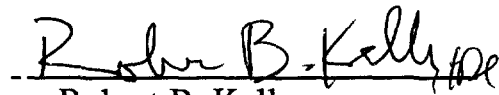
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